

STATE BOARD OF ARBITRATION AND CONCILIATION

ANNUAL REPORT

FISCAL YEAR 2004

This report is made pursuant to 26 M.R.S.A. § 931 (1988 and Supp. 2003).

Administrative Developments. There were no changes in the complement of the Board this year. On March 16, 2004, Governor Baldacci reappointed Chair Shari B. Broder, an attorney from Freeport whose practice is concentrated in the area of alternative dispute resolution; Alternate Chair Peter P. Michaud, Esq., of Cape Elizabeth, Of Counsel with the Portland law firm of Thompson, Bull, Furey, Bass & MacColl and who focuses his practice on mediation and arbitration; Alternate Employee Representatives Chester G. (“Chuck”) Hillier of Monmouth, Assistant Negotiator with the Maine State Employees Association, and Shawn C. Keenan, of Bath, General Counsel of the Maine Education Association; and Alternate Employer Representative Kate S. Debevoise of Yarmouth, an attorney with the firm of Bernstein, Shur, Sawyer and Nelson in Portland.

The other members of the Board, Alternate Chair Barbara L. Raimondi of Auburn, an attorney with the firm of Trafton and Matzen in Auburn; Employee Representative Robert F. Bourgault, a Labor Consultant from Biddeford; Employer Representative Virgil E. Beane of Cumberland Center, Senior Vice President (retired) of Hannaford Brothers Company; and Harry R. Courtois of Biddeford, Labor Relations Officer (retired) for the City of Bangor and a former Chief of Police in Biddeford, continued to serve in their respective capacities throughout the year. The competence of the Board’s membership remains high, consisting of able neutrals and partisan members known throughout the Maine labor relations community.

Roger A. Putnam of the Maine Labor Relations Board (MLRB) staff coordinated the Board’s activities and served as the primary liaison with the client community. MLRB Executive Director Marc P. Ayotte served as the Board’s general administrator

and legal advisor.

Activities of the Board. The 24 total cases filed this year compares with 30 total filings in the previous fiscal year. During the last twenty years, the year with the greatest number of filings (75) was FY 1987 and the fewest cases (22) were filed in FY 2002. During that period, an average of 37.85 cases were filed each year.

As in past years, the bulk of the Board's case load involved hearing and resolving grievance disputes, requiring interpretation of collective bargaining agreements. Grievances are disputes that arise due to differing interpretations by the parties of the provisions of their collective bargaining agreement. Of the 24 requests for services received this year, the 21 filings involving grievance arbitration matters were as follows:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Issue</u>
AFSCME, Council 93	Augusta PWD	Discipline
AFSCME, Council 93	Cumberland Cty. S.D.	Admin. Leave Pay
AFSCME, Council 93	Cumberland Cty. S.D.	Transfer/Lost Pay
AFSCME, Council 93	Cumberland Cty. S.D.	Suspension & Demotion
AFSCME, Council 93	Knox County S.D.	Health Insurance & Training Stipend
AFSCME, Council 93	Westbrook P.W.D.	Suspension
AFSCME, Council 93	Westbrook P.W.D.	Suspension
Auburn Fire Fighters Assn.	Auburn	Wage Increase & Benefits Reopener
Granite City Employees Assn.	Hallowell	Dismissal
IAMAW District Lodge #4	Wiscasset	Work Week Modification

IAFF Local 1476	South Portland	Mandatory Meetings
IAFF Local 1611	Bath	Call-back and Scheduling
IAFF Local 2303	Gardiner Fire Dept.	Training Grievance
Teamsters Local 340	Aroostook County S.D.	Termination
Teamsters Local 340	Berwick P.D.	Termination
Teamsters Local 340	Cumberland Cty. S.D.	Suspension
Teamsters Local 340	Kittery	Retiree Health Ins. Premium
Teamsters Local 340	University of Maine	Temporary Schedule Change
Teamsters Local 340	University of Maine	Student Performing Unit Work
Teamsters Local 340	Washington Cty S.D.	Suspension & Termination
Teamsters Local 340	Waterville F.D.	Unit/Voluntary Work

Conciliation is a process during which the partisan members of the assigned Board panel, the Employee and Employer Representatives, meet with “their” respective party, assess that party’s real needs and concerns in the matter at issue, and help the party to determine the relative strengths and weaknesses of their position. The partisan members then caucus to ascertain whether an agreed-to resolution is possible and, if so, work with the parties in achieving settlement. The Board believes that parties resolving their dispute through mutual understanding and accord is far preferable to having a solution be imposed by fiat of a third party; accordingly, we attempt to conciliate every case presented to us. Of the 10 grievance arbitration cases on which the Board met this year, settlement was reached in 1 case. Ten (10) cases were withdrawn by the parties prior to

hearing, 1 case was withdrawn after one day of hearing and settlement discussions, and 10 cases are pending.

The Board also received 3 requests for fact-finding services this year, up from 2 requests received last year. The latter type of case arises when parties, with or without the assistance of a mediator, are unable to reach accord on an initial or successor collective bargaining agreement. The following requests for fact-finding were received this year:

<u>Bargaining Agent</u>	<u>Employer</u>	<u>Result</u>
Yarmouth Ed. Assn.	Yarmouth School Dept.	Settled/Withdrawn
Teamsters Union Local 340	Hancock County	Settled/Withdrawn
MSAD 46 Ed. Assn.	MSAD 46	Hearing held--awaiting Report

Interest arbitration is the final step of the statutory dispute resolution mechanism under the various public sector labor relations laws. The major difference between fact-finding and interest arbitration is that, in the latter process, the panel's determinations are binding on the parties, except in regard to disputes concerning wages, pensions, and insurance. The Board did not receive any requests for interest arbitration this fiscal year.

Legislative Developments. Two measures affecting the Board were enacted by the Legislature and signed by the Governor this year. The first of the new laws, Chapter 670 of the Public Laws of 2003, creates a special panel of the Board and authorizes it to set rates for the harvesting and hauling of forest products. Patterned after the current Board, the new panel will be constituted from the three neutral Chairs, one member and two alternates representing forest products harvesters and haulers, and one member and two alternates representing forest landowners. The tri-partite panel in each case will consist

of one individual from each of the membership categories. Applying criteria set forth in the Statute, a “forestry rate proceedings panel” will determine an appropriate rate for the harvesting and/or hauling of forest products, including reviewing rates agreed to in negotiations between forest product landowners and harvesters or haulers.

The second Law, Chapter 674, limits the application of Chapter 670 to situations involving forest landowners who own, possess, or acquire economic control over more than 400,000 acres in a labor market area and whose “acreage constitutes more than 30% of the total land area in that labor market area.” The quoted language added by Chapter 674 significantly limits the number of forest landowners who will be subject to the rate setting process.

The Board of Arbitration and Conciliation is pleased with its achievements, particularly with its reputation for fairness in the labor relations community. The Board’s mission is to improve the labor-management climate in the public sector by providing high quality professional services to our client community, helping in the resolution of their disputes.

Dated at Augusta, Maine, this 1st day of July, 2004.

Respectfully submitted,

Marc P. Ayotte, Executive Director
Maine Labor Relations Board